



STATE BOARD OF EQUALIZATION
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Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Sacramento
NOTICE AND AGENDA**

Tuesday, December 13, 2005

Agenda items occur sequentially. When circumstances warrant, the Board's Chair, Mr. Chiang, may modify the order of the items on the agenda.

BOARD MEETING* (convenes at 9:30 a.m.) – Room 121

ORAL HEARINGS

E. PROPERTY TAX APPEAL HEARINGS

(Contribution Disclosure forms required pursuant to Govt. Code § 15626)

- E1a Calpine Construction Finance Company, LP (1132), 315964 – “CF”
- E1b Delta Energy Center, LLC (1128), 315963 – “CF”
- E1c Los Esteros Critical Energy Facility, LLC (1143), 315962 – “CF”
- E1d Metcalf Energy Center, LLC (1133), 315913 – “CF”
 - For Petitioner: Fred Vance, Representative
Samuel K. Steele, Representative
 - For Department: Mike Lebeau, Tax Counsel
- E2 Cingular Wireless, LLC (2606), 315682 – “CF”
 - For Petitioner: Peter W. Hladek, Representative
 - For Department: Shirley Johnson, Tax Counsel
- E3 Duke Energy Morro Bay, LLC (1104), 315706 – “CF”
 - For Petitioner: Peter W. Michaels, Attorney
 - For Department: Dana Flanagan-McBeth, Tax Counsel
- E4 Duke Energy Moss Landing, LLC (1103), 315705 – “CF”
 - For Petitioner: Peter W. Michaels, Attorney
 - For Department: Richard Moon, Tax Counsel
- E5 Elk Hills Power, LLC (1126), 315707 – “CF”
 - For Petitioner: Peter W. Michaels, Attorney
 - For Department: Richard Moon, Tax Counsel

- E6 High Desert Power Trust 2000-A (1127), 316098 – “CF”
 For Petitioner: Dan Tobias, Representative
 For Department: Mike Lebeau, Tax Counsel
- E7 Pacific Bell Telephone Company, dba SBC California (279), 314749 – “CF”
 For Petitioner: Eric Miethke, Attorney
 Carl Forbis, Executive Director
 For Department: Carole Ruwart, Tax Counsel
- E8 Verizon California, Inc. (201), 316353 – “CF”
 For Petitioner: Peter W. Michaels, Attorney
 For Department: Nancy Vadera, Tax Counsel

G. TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT

(Contribution Disclosure forms not required pursuant to Govt. Code § 15626)

G8 Property Tax Matters

THERE ARE NO ITEMS FOR THIS MATTER

G10 Legal Appeals Property Tax Matters

THERE ARE NO ITEMS FOR THIS MATTER

H. TAX PROGRAM NONAPPEARANCE MATTERS – ADJUDICATORY

(Contribution Disclosure forms required pursuant to Govt. Code § 15626)

H8 Property Tax Matters..... Mr. Gau

- Petitions for Reassessment of Unitary Value
 1. Cabrillo Power I, LLC (1106), 315709 – “CF”
 2. Mirant Potrero, LLC (1108), 316103 – “CF”
 3. Mirant Delta, LLC (1109), 316102 – “CF”
 4. El Segundo Power, LLC (1110), 315708 – “CF”
 5. GWF Energy, LLC – Hanford (1122), 316100 – “CF”
 6. GWF Energy, LLC – Henrietta (1123), 316101 – “CF”
 7. Gilroy Energy Center, LLC (1129), 315912 – “CF”
 8. WiTel Communications, LLC (7819), 316352 – “CF”

H10 Legal Appeals Property Tax Matters Mr. Lambert

- Petition for Reassessment and Penalty Abatement on Unitary Escape Assessment
 1. Norcast Communications Corporation (7998), 295095 – “CF”
- Petition for Reassessment of Unitary Value
 2. AT&T Communications, Inc. (2310), 315702 – “CF”

I. TAX PROGRAM NONAPPEARANCE MATTERS

(Contribution Disclosure forms not required pursuant to Govt. Code § 15626)

I1 Property Taxes Matter..... Mr. Gau

- Audit
 1. Southern California Gas Company (149) – “CF”

CHIEF COUNSEL MATTERS**L. Property Tax.....Mr. Lambert**

- Board Consideration of Findings and Decisions
 - L1 Broadwing Communications, LLC (7630), 314492

B. CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS

(Contribution Disclosure forms required pursuant to Govt. Code § 15626)

B1 Joseph L. Hale and Kathyanne Hale, 289903
 For Appellant: Jack Rarick, Enrolled Agent
 For Franchise Tax Board: Diane Ewing, Tax Counsel

~~B2 Robert C. Miller and Barbara P. Miller, 249998~~
~~For Appellant: Robert C. Miller, Taxpayer~~
~~Barbara Miller, Taxpayer~~
~~Richard L. Dowberry, Attorney~~
~~Joseph A. Vinatieri, Attorney~~
~~For Franchise Tax Board: John Penfield, Tax Counsel~~

D. SPECIAL TAXES APPEALS HEARING

(Contribution Disclosure forms required pursuant to Govt. Code § 15626)

~~D1 Kam Yuen International, Inc., 216737 (ET)~~
~~For Petitioner: Jeffrey A. Chen, Attorney~~
~~Chun Mei Zhang, Representative~~
~~For Department: Tim Treichelt, Tax Counsel~~

BOARD COMMITTEE MEETINGS (convene at 1:30 p.m.)****LEGISLATIVE COMMITTEE – Room 122Ms. Yee, Committee Chair**

Suggestions for Property Taxes, Business Taxes (General, Sales and Use Taxes, and Special Taxes) and Administration legislation to be sponsored by the Board in the second year of the 2005-2006 Legislative Session. Additional suggestions will be included on the agenda for January 2006.

➤ **2006 Legislative Proposals—Property Taxes**

- Amend Revenue and Taxation Code sections 744 and 749 to extend from December 31 to March 1 of the following year the deadline for the Board of Equalization to decide state assessee appeals.
- Amend Revenue and Taxation Code section 69.5 to allow a base year value transfer to be granted on a prospective basis after the three-year time period for filing a claim has expired.
- Amend Revenue and Taxation Code section 69.5 to correct clean-up changes made by SB 555 (Ch. 264, Stats. 2005). (Technical)

- Amend Revenue and Taxation Code sections 214 and 214.8 to make corrective changes to the welfare exemption regarding eligible occasional users of tax exempt properties and limited liability companies. (Housekeeping)
 - Remove the disaster provisions of Revenue and Taxation Code section 218 and place in a new section. (Housekeeping)
 - Amend Revenue and Taxation Code sections 254.5 and 254.6 to clarify the procedures for issuing organizational clearance certificates to veterans' organizations. (Housekeeping)
 - Amend Revenue and Taxation Code section 1840 to conform the final deadline for filing section 11 appeals with the Board of Equalization to that for other state assessees. (Housekeeping)
- **2006 Legislative Proposals—Business Taxes (General)**
- Amend Revenue and Taxation Code sections 9271, 30459.1, 32471, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332 and 60636 to allow small case authority approval by the Executive Director and Chief Counsel, jointly, of special taxes and fees settlement matters not exceeding \$5,000, consistent with the Sales and Use Tax Law.
- **2006 Legislative Proposals—Business Taxes (Sales and Use Taxes)**
- Amend Sales and Use Tax Law section 6360.1 relative to the military lapel pin exemption, to incorporate correct, updated reference to the United States Code. (Technical)
- **2006 Legislative Proposals—Business Taxes (Special Taxes)**
- Amend Motor Vehicle Fuel Tax Law section 8106 to clarify that a supplier is allowed to take a credit, in lieu of a refund of the tax, on a supplier's tax return for tax-paid motor vehicle fuel removed, entered, or sold by the supplier, when otherwise entitled to claim a refund, and repeal sections 8106.1, 8106.5 and 8106.8 so that all of a supplier's credits in lieu of refund are provided for in section 8106.
 - Add sections 9152.2, 30178.3, 32402.2, 40112.2, 41101.2, 43452.2, 45652.2, 45602.2, 50140.2, 55222.2 and 60522.2 to the Revenue and Taxation Code to allow the Board to grant refunds of overpayment of tax, fee, interest, or penalty collected by the Board by means of a levy if the claim is filed within three years of the date of overpayment.
 - Amend section 30102.5 of the Cigarette and Tobacco Products Tax Law to clarify that the tax does not apply to tobacco products under internal revenue bond or customs control. (Housekeeping)
 - Amend section 60063 of the Diesel Fuel Tax Law to correct an erroneous reference and a typographical error. (Technical)
 - Amend section 60101 of the Diesel Fuel Tax Law to delete intercity bus operator as a person allowed to use dyed diesel fuel on the highway and repeal sections 60045 and 60046 to delete the definitions of intercity bus and intercity bus operator. (Technical)

- Amend Diesel Fuel Tax Law section 60201.3 to establish a time period for the mailing of a notice of determination to an unlicensed supplier when their supplier had claimed a bad debt credit or received a refund for the tax previously paid on the bad debt. (Housekeeping)
- Amend sections 60604 and 60606 of the Diesel Fuel Tax Law to correct a spelling error. (Technical)

➤ **2006 Legislative Proposals—Administration**

- An Act to state legislative findings and declarations regarding the window failures at the State Board of Equalization's headquarters building and to obtain an appropriation for the repair of the windows.

PROPERTY TAX COMMITTEE – Room 121 Mr. Parrish, Committee Chair

1. Consideration of Proposed Property Tax Rule 474, *Petroleum Refining Properties*.

BOARD MEETING* (convenes upon adjournment of the Board Committee Meetings) – Room 121

C. SALES AND USE TAX APPEALS HEARING

(Contribution Disclosure forms not required pursuant to Govt. Code § 15626)

LOCAL TAX REALLOCATION HEARING

- C1 Cities of Los Angeles and San Jose, LTR04-009
 For Petitioner: Albin C. Koch, Attorney
 Robert Cendejas, Attorney
 Steve Weise, Attorney
 For Department: Carole Ruwart, Tax Counsel

F. PUBLIC HEARINGS

F1 Proposed Amendments to Sales and Use Tax Regulation 1699, Permits (Continued from 11/15/05) Ms. Stanislaus

View Additional Information

Current law provides that a seller's permit shall not be issued to a retailer's place of business where the retailer merely stores tangible personal property and which customers do not customarily visit for the purpose of making purchases, but at least one permit must be held by every person maintaining stocks of merchandise in this state for sale. Regulation 1699, *Permits*, is proposed to be amended to interpret, implement, and make specific Revenue and Taxation Code section 6066. Amendments are proposed to provide that when a retailer negotiates sales out-of-state, but the goods are shipped from a stock of goods owned by the retailer in this state, a permit is required for the location of the stock of goods.

F2 Proposed Amendments to Sales and Use Tax Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes (Continued from 11/15/05)..... Ms. Stanislaus

View Additional Information

Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 7202. Currently, Regulation 1802 provides that when a retailer has no sales offices in this state but fulfills out-of-state orders from a stock of goods located in this state, the place of sale is the location of the stock of goods. Amendments are proposed to provide that when a retailer negotiates sales out-of-state but the goods are shipped from a stock of goods owned by the retailer in this state, the sales are consummated at the location of the stock of goods and the local tax revenue derived thereby is to be distributed directly to that location whether or not the retailer has registered business locations in this state.

F3 Timber Yield Tax Rate Mr. Hayes

Revenue and Taxation Code § 38202 requires that the Board adjust the timber yield tax rate in December of each year to the nearest one-tenth of one percent for the next calendar year. The adjustment is to be in the same proportion as the change from the previous tax year to the present one of the average general property tax rate in the rate adjustment counties.

F4 Timber Harvest and Timber Modified Harvest ValuesMs. Stuckey

On or before December 31, 2005, the Board shall estimate the immediate harvest values of and adopt schedules for timber harvested between January 1, 2006 and June 30, 2006. Additionally, the Board may modify immediate harvest values to reflect material changes in timber values that result from fire or other catastrophic cause for any area or part thereof in which damaged timber is located. (R&T Code § 38204)

G. TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT

(Contribution Disclosure forms not required pursuant to Govt. Code § 15626)

G1 Legal Appeals MatterMr. Levine

- Hearing Notice Sent – No Response
 1. Douglas E. Diley, 261995 (OH)

G2 Franchise and Income Tax Matters..... Mr. Schreiter

- Decisions
 1. Arbitron, Inc., 271484
 2. Valentine Chukwudebelu, 301139
 3. Gloria Cox, 297872
 4. Richard Dagley, 296763
 5. Thomas R. DeLong, 266589
 6. Geotech Crane Controls, Inc., 270333

7. Carmel and Etti Ish-Shalom, 288987
8. Edgar Leal, 306069
9. Whitney L. Lynch, 307226
10. Daniel B. Martin, 294391
11. Thomas S. McIntyre, 305612
12. Fakhradin and Laura Mirian, 305200
13. Andrew Nguyen, 266623
14. Dan F. Peterson, 288978
15. Regis Realty I, LLC, 301342
16. Arne R. Ristol and Ulla A. Ristol (Deceased), 267254
17. Stryker Sales Corporation, 301164
18. Richard M. Trank, 304962
19. Jesus Valle, 308080
20. Patrick Wang, 289998

G3 Homeowner and Renter Property Tax Assistance Matters Mr. Schreiter

➤ Decisions

1. Kyle Cady, 305040
2. Arthur R. Dennison (Deceased), 304423
3. Estelle L. Gannon (Deceased), 306447
4. Terri R. Goldston, 306124
5. Veronica Hills-Brown, 305046
6. Veronica Ann Hutch, 306436
7. Diane Gallegos, 306276
8. E. F. Inman, 306362
9. Ariknazan Khodabakhshian, 301767
10. Phuong M. Lee, 297157
11. Richard Lyons, 310091
12. Mitchell Miller, 312984
13. Santiago Ortiz, 310011
14. Daniel Reyes, 310446
15. Alberta Richardson, 300421
16. James M. Salisbury, 309153
17. Jacquina Sullivan, 311315
18. R. H. Tan, 310842

G4 Sales and Use Taxes Matters Ms. Henry

➤ Redeterminations

1. Richard M. Smith, 304039 (CH)
2. Enhanced Technologies Group, Inc., 251989 (EA)

➤ Relief of Penalty/Interest

3. Lanier Worldwide, Inc., 330071 (OHC)

➤ Denials of Claims for Refund

4. Computer Sciences Corporation, 300623 (AS)
5. Bell & Howell DMPC, 195337 (OHA)
6. Align Technology, Inc., 262560 (GH)
7. W9/Roy Real Estate, LLC, 213932 (OHB)
8. Santa Rosa Rancheria Federal Indian Tribe, 37320 (KHO)

G5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry

- Credits and Cancellations
 1. Computer Sciences Corporation, 328341 (AS)
 2. Pomona Valley Imports, Inc., 328340 (EH)
- Refunds
 3. The California Credit Union, 268941 (AC)
 4. Bear Advertising, Inc., 244829 (AC)
 5. County of Los Angeles Auditor, 235113 (AA)
 6. Toyota Motor Credit Corporation, 328640 (AS)
 7. Bank of America NT & SA, 171360 (OHB)
 8. Sony Corporation of America, 192712 (FHB)
 9. James Orland Harris, 266766 (KH)
 10. Sima Hilde, 330724 (KH)
 11. Sensormatic Electronics Corporation, 304828 (OHC)
 12. Volvo Finance North America, Inc., 317833 (OHC)
 13. Demag Cranes & Components Corporation, 250383 (OHA)
 14. Enigma, Inc., 244146 (AC)
 15. Human Kinetics Publishers, Inc., 307906 (OHA)
 16. Align Technology, Inc., 300674 (GH)
 17. Vutek, Inc., 329262 (OHB)
 18. Veeder Root Service Company, 328491 (OHB)
 19. John Arthur Hays, 310921 (AR)
 20. Alstom Power, Inc., 310361 (OHB)
 21. Skyworks Solutions, Inc., 328489 (OHB)
 22. Sunwest Industries, Inc., 327464 (EA)
 23. Advanced Digital Services, Inc., 294861 (AS)
 24. Smart Inventions, Inc., 251381 (AA)
 25. Guidant Sales Corporation, 327906 (GH)
 26. Consumer Portfolio Services, Inc., 300169 (EAA)
 27. Tekworks, Inc., 294777 (FHB)
 28. Kevin's Cabinets, Inc., 328991 (KHO)
 29. Amy's Kitchen, Inc., 326387 (JH)

G6 Special Taxes Matters

THERE ARE NO ITEMS FOR THIS MATTER

G7 Special Taxes Matters – Credits, Cancellations, and Refunds..... Mr. Gau

- Credit and Cancellation
 1. Valero Refining Company – California, 215852 (MT)
- Refunds
 2. Valero Refining Company – California, 330136 (MT)
 3. Great Southern Life Insurance Company, 297067 (ET) – “CF”
 4. Great Southern Life Insurance Company, 326385 (ET) – “CF”
 5. American Procurement & Logistics Company, 307795 (ET)
 6. American Procurement & Logistics Company, 328123 (ET)

G9 Cigarette License Fee Matters

THERE ARE NO ITEMS FOR THIS MATTER

H. TAX PROGRAM NONAPPEARANCE MATTERS – ADJUDICATORY*(Contribution Disclosure forms required pursuant to Govt. Code § 15626)***H1 Legal Appeals Matters***THERE ARE NO ITEMS FOR THIS MATTER***H2 Franchise and Income Tax Matters..... Mr. Schreiter**

➤ Decisions

1. Safeway, Inc., 268637
The Vons Companies, Inc., 283211
2. Hannah Dawn Swift, 304424
3. WI LV #2, A California Limited Partnership, 281230

➤ Petition for Rehearing

4. Jane Marchiorlatti, 213237

➤ Matters for Board Consideration

5. Herman A. Ahlers and Donna M. Ahlers, 257952
- 6a. Billy Wayne Blanks and Gayle H. Blanks, 268581
- 6b. BG Star Productions, Inc., 268579
7. Thomas F. Carter and Judith J. Carter, 258811

H3 Homeowner and Renter Property Tax Assistance Matters*THERE ARE NO ITEMS FOR THIS MATTER***H4 Sales and Use Taxes Matters***THERE ARE NO ITEMS FOR THIS MATTER***H5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds.....****Ms. Henry**

➤ Refund

1. Household Retail Service, Inc., 103973 (OHA)

H6 Special Taxes Matters Mr. Gau

➤ Denial of Claim for Refund

1. Jirayr Nersesyan, 325533 (MT)

H7 Special Taxes Matters – Credits, Cancellations, and Refunds*THERE ARE NO ITEMS FOR THIS MATTER***H9 Cigarette License Fee Matters***THERE ARE NO ITEMS FOR THIS MATTER***I. TAX PROGRAM NONAPPEARANCE MATTERS***(Contribution Disclosure forms not required pursuant to Govt. Code § 15626)***I2 Offers-in-Compromise Recommendations***THERE ARE NO ITEMS FOR THIS MATTER*

CHIEF COUNSEL MATTERS**J. Rulemaking****Property Taxes Ms. Stanislaus****J1 Request authorization to publish: Part 1 & Part 2**

- Rule 140, *Welfare Exemption Requirements for Low-Income Housing Properties*
- Rule 140.1, *Requirements of Managing General Partner of Limited Partnership for Welfare Exemption for Low-Income Housing Properties*
- Rule 140.2, *Requirements for Supplemental Clearance Certificate for Limited Partnership for Welfare Exemption for Low-Income Housing Properties*
- Rule 143, *Requirements for Irrevocable Dedication Clause and Dissolution Clause for Organizational Clearance Certificate for Welfare Exemption*

K. Business Taxes*THERE ARE NO ITEMS FOR THIS MATTER***M. Other Chief Counsel Matters***THERE ARE NO ITEMS FOR THIS MATTER***ADMINISTRATIVE SESSION****N. Consent Agenda Ms. Pellegrini****N1 Retirement Resolutions**

- Marge Foulds
- Robert (Bob) L. Reichmuth
- Lon R. Stern
- Kay Lucas
- Donald A. Ainsworth
- Monte Williams
- Dennis Maciel

O. Approval of Board Committee Minutes

- O1 Business Taxes Committee—November 15, 2005
- O2 Legislative Committee—December 13, 2005
- O3 Property Tax Committee—December 13, 2005

P. Other Administrative Matters**P1 Executive Director's Report Mr. Hirsig**

Executive Director's opportunity to report on matters of interest to the Board.

1. Report on November Multistate Tax Commission Fall Meetings
2. Headquarters Windows Project Update

ANNOUNCEMENT OF CLOSED SESSION..... Ms. Pellegrini**Q. Closed Session**

- Q1 Discussion and approval of staff recommendations regarding settlement cases (R&T Code § 6901, 7093.5, 30459.1 and 50156.11)
- Q2 Discussion and action on personnel matters (Govt. Code § 11126(a))

OPEN SESSION**ADJOURN**

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The hearing location is accessible to the disabled. If you require special assistance, please contact Cathy Stroh at (916) 324-2599 or e-mail cathy.stroh@boe.ca.gov to make special arrangements.

Deborah Pellegrini, Chief
Board Proceedings Division

- * Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.
- ** Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.

